

Title: Groom lake lawyer targets exemption in workers' toxic
contaminants lawsuit

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GROOM LAKE LAWYER TARGETS EXEMPTION IN WORKERS' TOXIC CONTAMINANTS LAWSUIT

By Warren Bates

An attorney representing former workers of the U.S. Air Force's operating location near Groom Lake is asking a federal judge to consider what he calls the most important issue in their lawsuit against the government <whether base information is privileged even if crimes were committed there.

Jonathan Turley, professor at George Washington University Law School, is fighting a presidential exemption the government received in October that allows to be kept secret virtually all information regarding operations at the base west of Alamo in Lincoln County.

Turley is asking U.S. District Judge Philip Pro to determine the scope of the exemption and ,the government's assertions of national security. In court briefs filed this week, he argued that the government, for the first time, has taken the position that the privilege covers even activities alleged to be illegal.

Workers have two lawsuits pending that say they were exposed to toxic contaminants while working on projects. When the presidential exemption was granted, Turley said it meant only that current and future activity was protected.

"This motion is a defining issue for this litigation ... it sets up a national threshold," Turley said Tuesday. "If the executive branch can withhold evidence of its own crimes, it becomes a government onto itself."

Turley's motion argues that Pro would be the first judge to interpret how far the government can go in its efforts to maintain national security.

"If the court believes that the government may refuse to confirm evidence of its own criminal conduct as a national security matter, there is no limitation on their use of the privilege," his motion stated.

Turley has filed eight motions to compel the government to release details of base operations. While the United States has claimed executive or state secrets privilege on all of them, Turley is arguing that if authorities withhold a confirmation of

acts they are not allowed to commit," the information must be released.

The attorney said his requests for information have been tailored so that sensitive details can be "easily segregated" from evidence of criminal conduct. He said he has not asked for anything more specific than an admission that violations of the Resource and Conservation Recover Act have occurred.

The government has called Turley's charges mere allegations and insinuations and therefore is not responsible for any disclosures. Turley claims they are factual matters supported by affidavits from eyewitnesses, including participants in burning operations.

Government attorneys Russel Young and Sylvia Quast have asked Pro to reconsider part of his order that requires presidential action under the Resource Act. They contend the order is unwieldy and frustrates the system previously used by presidents < the delegation of classified decisions to subordinate executive branch officials.

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